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7  
8 **UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

9  
10 UNITED STATES OF AMERICA,  
Plaintiff,  
vs.  
11 KEVIN MICHAEL KEALOHA,  
12 Defendant,  
13

Case No.: 2:21-cr-259-APG-VCF

**STIPULATION TO CONTINUE  
SENTENCING HEARING (First  
Request)**

14 IT IS HEREBY STIPULATED AND AGREED by and between JASON M.  
15 FIERSON, United States Attorney, JOSHUA BRISTER, Assistant United States Attorney,  
16 counsel for the United States of America, and TODD M. LEVENTHAL, ESQ., counsel for  
17 KEVIN MICHAEL KEALOHA, that the Sentencing Hearing date currently scheduled August  
18 3, 2022 at 10:00 a.m. be vacated and continued for ninety (90) days, to a date and time to be set  
19 by this Honorable Court.  
20  
21 \\\  
22 \\\  
23  
24

This stipulation is entered into for the following reasons:

1. Defendant KEVIN MICHAEL KEALOHA is in custody and does not object to the continuance.

2. The parties agree to the continuance

3. In accordance with United States v Taylor case No. 20-1459, decided on June 21, 2022, there will be direct consequences for the defendant in regards to his plea agreement. Based on the United States v Taylor case, a new plea agreement may be necessary to reach the parties objectives.

4. This request for time is not for the purposes of delay, but merely to allow counsel for defendant sufficient time within which to be able to effectively and complete investigation.

5. Additionally, denial of the continuance could result in a miscarriage of justice. The additional time is excludable in computing the time within which the trial must commence under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A) based on the factors outlined in §3161(h)(7)(B)(i), (iv)

This is the first request for a continuance of sentencing.

DATED this 21<sup>st</sup> day of July, 2022

Respectfully submitted,

TODD M. LEVENTHAL, ESQ.  
Attorney for Kevin Michael Kealoha

/s/ *Joshua Brister*

*/s/ Todd Leventhal*

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JOSHUA BRISTER  
Assistant United States Attorney

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TODD M. LEVENTHAL  
Counsel for Defendant Kevin Kealoha

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*Attorney for Kevin Kealoha*

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8 **UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

9 UNITED STATES OF AMERICA,

Case No.: 2:21-cr-259-APG-VCF

10 Plaintiff,

**FINDINGS OF FACT,**  
**CONCLUSIONS OF LAW AND**  
**ORDER**

11 vs.

12 KEVIN MICHAEL KEALOHA,

13 Defendants.

14 **FINDINGS OF FACT**

15  
16 Based on the pending Stipulation of counsel, and good cause appearing therefore, the  
17 Court finds that:

18 1. Defendant KEVIN MICHAEL KEALOHA is in custody and does not object to  
19 the continuance.

20 2. The parties agree to the continuance

21 3. In accordance with United States v Taylor case No. 20-1459, decided on June 21,  
22 2022, there will be direct consequences for the defendant in regards to his plea agreement. Based  
23 on the United States v Taylor case, a new plea agreement may be necessary to reach the parties  
24 objectives.

4. This request for time is not for the purposes of delay, but merely to allow counsel for defendant sufficient time within which to be able to effectively and complete investigation.

5. Additionally, denial of the continuance could result in a miscarriage of justice. The additional time is excludable in computing the time within which the trial must commence under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A) based on the factors outlined in §3161(h)(7)(B)(i),

## CONCLUSIONS OF LAW

The ends of justice served by granting said continuance outweigh the best interest of the public and the defendant, since the failure to grant said continuance would be likely to result in a miscarriage of justice, would deny the parties herein to potentially resolve the case prior to indictment, and further would deny the parties sufficient time and the opportunity within which to be able to effectively and thoroughly prepare for the preliminary hearing, taking into account the exercise of due diligence.

The continuance sought herein is allowed, with the defendant's consent, pursuant to Federal Rules of Procedure 5.1(d).

## ORDER

IT IS THEREFORE ORDERED that the Sentencing in the above-captioned matter, currently scheduled for August 3, 2022, at 10:00 a.m. be vacated and continued to November 9, 2022, at the hour of 1:30 p.m. in Las Vegas Courtroom 6C.

DATED this 27th day of July, 2022.

UNITED STATES DISTRICT JUDGE